

PUBLISH

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

FILED
United States Court of Appeals
Tenth Circuit

JUL 26 1989

ROBERT L. HOECKER
Clerk

In re: COAL-X LTD., "76",)
Debtor.)

C & C COMPANY, a West Virginia)
corporation, successor in)
interest to WALTER KELLOGG,)
Trustee,)
Plaintiff-Appellant.)

No. 86-2557

v.)
SEATTLE FIRST NATIONAL BANK,)
Defendant-Appellee.)

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
(D.C. Nos. 86C-367-W and 86C-389-W)

Michael N. Zundel of Jardine, Linebaugh, Brown & Dunn, Salt Lake
City, Utah, for Plaintiff-Appellant.

Peter W. Billings, Jr. (Gary E. Jubber with him on the brief) of
Fabian & Clendenin, Salt Lake City, Utah, for Defendant-Appellee.

Before MCKAY, BARRETT, and EBEL, Circuit Judges.

MCKAY, Circuit Judge.

We affirm the decision of the district court which reversed, in part, the bankruptcy court. We affirm for the reasons given in the district court's opinion which we have directed to be published. The rule established in that opinion is that 11 U.S.C. § 105(a) (1982) providing for equitable apportionment prevails over a contrary state rule providing for nonapportionment of rents. In this we join the Second Circuit. S & W Holding Co. v. Kuriansky, 317 F.2d 666 (2d Cir. 1963).

The district court correctly found that the bankruptcy court erred in refusing to add interest to the amount secured by the landlord's lien. The landlord is entitled to interest on the full \$85,000 accruing from May 1, 1984, to May 18, 1984. To the extent that it can be read otherwise, the district court opinion is reversed on that point.

AFFIRMED in part and REVERSED in part.